

**UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:)	Chapter 11
)	
RESIDENTIAL CAPITAL, LLC, et al.,)	Case No. 12-12020 (MG)
_____)	Jointly Administered
)	
)	
)	Claim 1138
Debtor)	

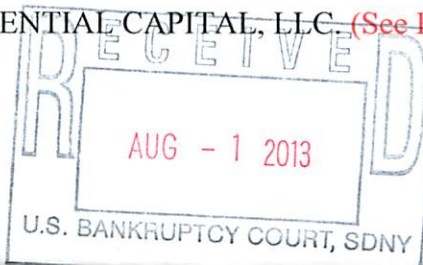
CREDITOR'S NOTICE FOR VOLUNTARY DISMISSAL

**BRIAN EDMOND BATH'S RESPONSE AND OBJECTION TO DEBTOR'S MOTION TO
DISALLOW AND EXPUNGE FOR FAILURE TO SHOW SUPPORTING
DOCUMENTATION**

Brian Edmond Bath humbly prays to the Court to deny debtors claim
to disallow and expunge my claim.

A. INTRODUCTION

1. Creditor is Brian Edmond Bath; debtor is RESIDENTIAL CAPITAL, LLC.
2. Creditor files a claim against debtor for a report on Brian Edmond Bath's Experian credit report for \$ 75,000.00 under a GMAC Mortgage account.
3. Debtor filed a motion to dismiss Creditor, Brian Edmond Bath claim for failure to show sufficient documentation
4. Creditor, Brian Edmond Bath files this response asking the Court to deny debtor's motion.
5. In its claim, debtor alleged an insufficient claim for lack of documentation, prior to filing petition for bankruptcy; creditor can produce 2 years of correspondence with GMAC, subsidiary of RESIDENTIAL CAPITAL, LLC. (See Exhibit A & B)



B. ARGUMENT

6. When considering the debtor's motion to dismiss, a court must construe the factual allegations in the complaint in the light most favorable to the creditor.

See *Barker v. Riverside Cnty. Office of Educ.*, 584 F.3d 821, 824 (9th Cir. 2009); see *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555-56 (2007).

If the complaint provides fair notice of the claim and the factual allegations are sufficient to show that the right to relief is plausible, a court should deny the defendant's motion.

See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Twombly*, 550 U.S. at 555-56; *Brooks v. Ross*, 578 F.3d 574, 581 (7th Cir. 2009). {See *O'Connor's Federal Rules*, "Standard," ch. 3-F, §5.1, p. 203.}

7. In the motion, debtor alleged a claim for insufficient documentation, and the elements are what law states that a creditor must show documentation outside of discovery. The motion does not provide creditor with fair notice of the claim.

See *Brooks*, 578 F.3d at 581.

8. In support of *his* claim for sufficient, Brian Edmond Bath made the following factual allegations for each element: claim for 75,000.00. This factual allegations show a right to relief that is plausible. That is, when the factual allegations are assumed to be true, they show a right to relief that is more than mere speculation.

See *Braden v. Wal-Mart Stores, Inc.*, 588 F.3d 585, 594 (8th Cir. 2009); *Fowler v. UPMC Shadyside*, 578 F.3d 203, 211-12 (3d Cir. 2009); see *Iqbal*, 556 U.S. at 678-79; *Twombly*, 550 U.S. at 555-56; *Brooks*, 578 F.3d at 581

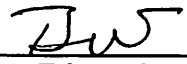
C. CONCLUSION

9. Because Brian Edmond Bath stated a claim on which relief can be granted, the Court should deny debtor's motion and retain the claim on the Court's docket.

Respectfully Submitted

Dated: July 28, 2013

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Brian Edmond Bath, Creditor
UCC 1 - 308

New Address: 2614 Tamiami Trail North, # 633
Naples, Florida [34103]

9227 East Lincoln Avenue
Suite 200 – 425
Lone Tree, Colorado 80124

Exhibit A

September 28, 2011

Experian
P O Box 9701
Allen, Texas 75013

Attn: Legal Department

I am disputing the following items:

1. GMAC MORTGAGE / ACCOUNT # 739176****

Please provide me with a description of the reinvestigation procedure for all items.

Please provide me with the source of information for all items.

Please send me all information in my consumer file.

Please send me an updated copy of my credit report.

Thank you for your cooperation in advance.

Sincerely,

Brian Edmond Bath
522-23-3948

P.S. Please find enclosed a copy of my Passport and Social Security card to verify identity.

Enc.

Office of Brian Edmond Bath
8547 East Arapahoe Road
Suite J - 129
Greenwood Village, Colorado
thetwomisifts@gmail.com

April 12, 2013,

2nd Constructive Notice

Certified Mail: 7011 2000 0001 2340 0632

GMAC Mortgage
PO BOX 4622
WATERLOO, IA 50704

Re: Experian Credit Report Accounts: 739176....

NOTICE OF PENDING LAWSUIT

Legal Department,

This is being sent prior to filing suit an opportunity to amicably cure GMAC Mortgage violations of the Fair Credit Reporting Act (FCRA) 15 U.S.C. § 1681b, Fair Debt Collection Practices Act (FDCPA) 15 U.S.C. § 1692c(a)(1) and the Florida Consumer Collection Practices Act (FCCPA).

I have repeatedly mail you written request to you requesting an lawful response. You have not done so. I also demand that you pay me \$ 75,000.00 as settlement for your violations of law at my expense and delete all records of your account with all 4 credit bureaus.

I am willing to settle these matters amicably without having to file suit and am giving you five days from receipt of this letter to take the opportunity to do so.

If GMAC Mortgage chooses not to settle the matters at hand then I will have no choice but to file suit and seek my remedy in small claims court.

Please also cease all communications with me by phone. All future communications with me must be done in writing or email and sent to the address noted in this letter.

Respectfully,

Brian Edmond Bath
thetwomisifts@gmail.com

Exhibit B